

48A C.J.S. Judges § 20

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

I. In General

C. Right and Title to Office; Determination of

§ 20. Generally

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West's Key Number Digest

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The due selection and qualification of a person to the office of a judge gives him or her the legal right to the possession of the office and entitles such individual to exercise the duties of his or her office during the term or period provided by law or until, by one of the methods provided by law, he or she becomes disqualified.

The due selection and qualification of a person to the office of a judge gives him or her the legal right to the possession of the office¹ and entitles such individual to exercise the duties of his or her office² during the term or period provided by law³ or until by one of the methods provided by law he or she becomes disqualified.⁴ The legislature may not, without cause, bar such person from taking the office,⁵ or prevent him or her from exercising the duties of the office,⁶ or designate someone else to fill the office during the portion of the term for which he or she was so selected.⁷ However, legislature may properly render the enjoyment of the right to the office dependent on various conditions.⁸

Single office of judge.

A court which has only a single office of judge cannot have two judges with power and jurisdiction to act in the same case at the same time.⁹

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Footnotes

- 1 N.C.—*People ex rel. Duncan v. Beach*, 294 N.C. 713, 242 S.E.2d 796 (1978).
As to the selection and qualification of a person to the office of a judge, see §§ 23 to 49.
- 2 N.C.—*In re Wingler*, 231 N.C. 560, 58 S.E.2d 372 (1950).
- 3 Ohio—*State v. Harmon*, 87 Ohio St. 364, 101 N.E. 286 (1913).
As to the term or tenure of the office of judge, see §§ 50 to 86.
- 4 Wyo.—*State v. Jefferis*, 26 Wyo. 115, 178 P. 909 (1919).
As to termination of the term or tenure of a judge, see §§ 61 to 66.
- 5 N.C.—*In re Wingler*, 231 N.C. 560, 58 S.E.2d 372 (1950).
- 6 Neb.—*State v. Reilly*, 94 Neb. 232, 142 N.W. 923 (1913).
- 7 Wis.—*State ex rel. Dithmar v. Bunnell*, 131 Wis. 198, 110 N.W. 177 (1907).
As to the filling of a judicial vacancy, see §§ 79 to 83.
- 8 S.C.—*Redfearn v. Board of State Canvassers of S. C.*, 234 S.C. 113, 107 S.E.2d 10 (1959).
As to the right of the legislature to fix qualifications of judicial office, see § 34.
- 9 Ind.—*State ex rel. Freeman v. Superior Court of Marion County*, 216 Ind. 372, 24 N.E.2d 928 (1940).